

IN THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE

IN RE:)	
)	CHAPTER 11
KITTERY POINT PARTNERS, LLC,)	CASE NO. 17-20316
Debtor.)	
_____)	

NOW COMES Bayview Loan Servicing, LLC (“Bayview”) and M&T Mortgage Corporation (“M&T”) (collectively, “Bayview,” unless otherwise specified), by and through its counsel, and hereby submits this witness and exhibit list pursuant to the terms of the Court’s August 20, 2019 Order Setting Date for Trial and Related Deadlines [D.E. # 228].

BAYVIEW’S ANTICIPATED WITNESSES

1. Jo Ann Snyder: Jo Ann is anticipated to testify regarding: A) the amounts that the debtor, Kittery Point Partners, LLC (“KPP”) owes to Bayview; B) the documentation and circumstances surrounding Bayview’s purchase of the Note and Mortgage at issue; C) communications between KPP, Tudor Austin, and Bayview; D) details of prior litigation between KPP and Bayview; and E) Bayview’s practices regarding loan interest rates and terms.
2. Tudor Austin: Tudor is anticipated to testify regarding: A) what KPP knew about the Wells Fargo Mortgage; B) the limits of Tudor’s knowledge of KPP’s actions; C) her actions on behalf of KPP once she took over; and D) additional lawsuits between KPP and Bayview.
3. Any witness called by KPP.
4. Any necessary rebuttal witnesses.

Bayview also reserves the following rights: the right to amend this list prior to trial upon adequate notice to the Court and parties, and the right to call/list impeachment and/or rebuttal witnesses at the time of trial as necessary.

BAYVIEW'S ANTICIPATED EXHIBITS

1. Exhibits listed in the Parties' Joint Stipulation of Facts and Exhibits filed contemporaneously herewith;
2. Mortgage on the Real Estate—as defined in the Stipulation of Facts and Exhibits for Trial—from James Austin to Wells Fargo Bank, N.A. dated February 3, 2003 and recorded in the York County Registry of Deeds (the “Registry”) in Book 12546, Page 231;
3. Satisfaction of Mortgage from Wells Fargo Bank, N.A. dated September 9, 2011 and recorded in the Registry in Book 16163, Page 284 concerning the Mortgage recorded in Book 12546, Page 231 of the York County Registry of Deeds;
4. Loan Sale Package from Middlebury Equity Partners (“MEP”) to Bayview;
5. Updated Payoff Statement from Bayview to KPP concerning payoff figure as of June 22, 2017;
6. Updated Payoff Statement from Bayview to KPP concerning payoff figure prior to trial;
7. Payment Notices/Mortgage Interest Statements sent to KPP by Bayview or M&T;
8. Summary of Payments Received from or on behalf of KPP regarding the Note and Mortgage included as attachments to Joint Exhibit A (the “Note” and “Mortgage”);
9. Documentation of Attorney Fees Incurred by Bayview regarding the Note and Mortgage;
10. Cost and expense summary from Bayview regarding the Note and Mortgage;
11. Bayview's Foreclosure Complaint, dated September 9, 2008, against KPP for failure to pay amounts allegedly due under the Note and Mortgage;
12. Bayview's April 28, 2010 dismissal of the aforementioned foreclosure complaint against KPP;
13. KPP Complaint dated August 3, 2011 filed against Bayview, M&T, and Daniel Systo (the “State Court Action”);
14. September 9, 2011 Answer and Counterclaim filed by Bayview and M&T in the State Court Action;
15. KPP Motion to Amend Complaint dated July 15, 2013 in the State Court Action;

16. Order denying Motion to Amend Complaint dated December 9, 2013 in the State Court Action;

17. Bayview and M&T Motion for Summary Judgment dated February 1, 2016 against KPP in the State Court Action

18. KPP Complaint dated May 8, 2018 filed in the York County Superior Court alleging Legal Malpractice against its former counsel.

KPP consents to the admission of Bayview's Anticipated Exhibit 1, the Parties' Joint Stipulation of Facts and Exhibits.

Bayview and KPP are working together to determine if KPP will consent to the admission of Bayview's Anticipated Exhibits 4-10.

KPP objects to the admission of the remaining anticipated exhibits of Bayview.

Bayview reserves the following rights: the right to produce any additional exhibits listed by the other parties; the right to amend this list prior to trial upon adequate notice to the Court and parties; and the right to list impeachment and/or rebuttal exhibits at the time of trial as necessary.

Dated: November 12, 2019

/s/ Andrew W. Sparks, Esq.

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